

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18990
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

On July 5, 2005, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1998 through 2003 in the total amount of \$120,435.

On August 30, 2005, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer submitted additional information for consideration with the stipulation that he would like a hearing if the information did not resolve the matter. The Tax Commission, having reviewed the file, hereby issues its decision.

The Bureau received information from the Idaho Department of Labor that showed the taxpayer received wages from an Idaho employer in 1998. The Bureau researched the Tax Commission's records and found that the taxpayer stopped filing Idaho income tax returns after filing his 1997 return. The Bureau sent the taxpayer letters asking about his requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau obtained additional information [Redacted] and determined the taxpayer was required to file returns for the tax years 1998 through 2003. The Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer protested the Bureau's determination.

The taxpayer stated he did not believe he owed any tax to Idaho. He stated that he has lived and worked in [Redacted], since 2001 and prior to that he lived and worked in [Redacted]. The taxpayer stated the income figures the Bureau derived were truly amazing. He stated that



during 1999 and 2000 he did a lot of day trading. He traded the same \$10,000 several times a day until he lost it all.

The Bureau corresponded with the taxpayer to get additional information. The taxpayer provided copies of federal return information that showed his address in [Redacted] in 1999, 2000, and 2001. He also provided a letter that stated he did owe tax to Idaho for 1998. He computed his tax, penalty, and interest for 1998 and included a check for the amount due; however, he did not prepare an income tax return. The Bureau reviewed the information and referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two alternative methods for redetermining the Notice of Deficiency Determination. The taxpayer responded with additional information and a statement that he wanted a hearing if the information did not yield a satisfactory conclusion. The Tax Commission reviewed the information the taxpayer provided and sent the taxpayer a letter asking for more specific information. The taxpayer provided most of the requested information. The Tax Commission asked for some specific documentation, but the taxpayer failed to provide it. Therefore, the Tax Commission decided the matter based on the information the taxpayer provided.

In 1998, the taxpayer left Idaho for employment in [Redacted]. He remained in [Redacted] through February 2001 when he moved back to Idaho because of severe health problems. The taxpayer was unemployed while living in Idaho until October 2001 when he found employment in [Redacted]. At this time the taxpayer moved to [Redacted], where he resides to this day.

The taxpayer stated he was unemployed while living in Idaho; however, he received a nonemployee compensation 1099 for 2001 that reported the taxpayer received significant



income. The taxpayer stated the nonemployee compensation was for a contract he began in August 2000 that was completed in February 2001. The taxpayer stated the portion attributable to his work in 2001 was approximately \$22,000. He also stated that he did not get paid until the work was accepted and payment was received from the client. The taxpayer stated the time lag between the work and payment was between 90 and 120 days. Considering this last statement, the taxpayer probably received the final payment on his contract while he was living in Idaho.

Idaho Code section 63-3002 states the intent of the Idaho legislature and the purpose of the Idaho income tax act is to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. Idaho Code section 63-3013A defines a part-year resident as an individual who has changed his domicile to or from Idaho during the taxable year or an individual who has resided in Idaho for more than one day during the taxable year and is present in the state for more than a temporary or transitory purpose.

From the information available, it appears that the taxpayer left [Redacted] when he completed his contract and moved back to Idaho in March 2001. He remained in Idaho until October 2001 when he relocated to [Redacted]. From March 2001 to October 2001 the taxpayer was a part-year resident of Idaho. The taxpayer stated he was unemployed during his time in Idaho; however, he likely received the final payment on his contract while he was in Idaho. If the taxpayer received the final payment while he was a part-year resident of Idaho, he would be required to report that income to Idaho. Idaho Code section 63-3002. See also State Tax Commission v. Stang, 135 Idaho 800, 25 P.3d 113, (2001).

The taxpayer stated he was required to file an Idaho income tax return for 1998. He did not complete an income tax return, but he did do a computation of his tax using an alternative



method. In his computation the taxpayer claimed to have withholdings in the amount of \$1,212. The taxpayer stated the withholdings amount came from his final pay stub from his employer. The Tax Commission asked the taxpayer to provide documentation to support the claimed withholdings. The taxpayer failed to respond. The Tax Commission obtained additional information [Redacted] and prepared a part-year resident return for the taxpayer for 1998. The Tax Commission did not allow any withholdings because the amount of the withholdings was unsubstantiated.

For the tax years 1999 and 2000, the taxpayer stated he lived and worked in [Redacted]. The Bureau asserted that the taxpayer remained domiciled in Idaho while the taxpayer was in [Redacted]. In support of its position, the Bureau points to the facts that the taxpayer purchased an Idaho driver's license in 2001 and he maintained an address in Idaho. The taxpayer readily admits to not having the proper driver's licenses while in [Redacted] or when he moved to [Redacted]. He stated he paid the price for that mistake in [Redacted]. As for the Idaho address, the taxpayer stated he has had an Idaho address since he was 18 years old. The address is a drop box that was initially used for convenience while he was in college and moving from place to place. He stated that recently it has become a level of protection for issues concerning identity theft.

The taxpayer did have and continues to have some connections with Idaho. However, the information available lacks a predetermined intent to keep Idaho as his state of domicile. Therefore, the Tax Commission finds that the taxpayer was required to file Idaho part-year income tax returns for 1998 and 2001 and that he was not required to file Idaho income tax returns for 1999, 2000, 2002 and 2003.

The taxpayer made an estimated tax payment for the tax year 2002 for which he has yet



to file a claim. Idaho Code section 63-3072 provides that, where there has been an overpayment of the tax imposed by the Idaho income tax act, the amount of such overpayment shall be credited against any tax due from the taxpayer. Since the taxpayer was not required to file a return for 2002, his estimated payment becomes an overpayment of the tax imposed by the Idaho income tax act. However, the taxpayer has a tax liability for the tax years 1998 and 2001. Therefore, in accordance with Idaho Code section 63-3072, the Tax Commission offsets the tax owing with the excess payment.

WHEREFORE, the Notice of Deficiency Determination dated July 5, 2005, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1998	\$1,387	\$ 347	\$ 720	\$2,454
2001	1,317	329	393	<u>2,039</u>
			TOTAL DUE	\$4,493
		LESS	REMITTANCE	(514)
			2002 OFFSET	<u>(3,400)</u>
			TOTAL DUE	<u>\$ 579</u>

Additional interest is calculated to May 25, 2007.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayer's right to appeal this decision is enclosed.



DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2007, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

\_\_\_\_\_